THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 11878 of 2007

O R D E R: (Per the Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed by the A.P. State Civil Supplies Corporation Limited, represented by its Vice Chairman and Managing Director, seeking to issue a writ of Certiorari calling for records relating to the order dated 23.1.2007 passed in O.A. No. 7079 of 2005 on the file of A.P. Administrative Tribunal and to struck down the same as illegal and arbitrary.

The respondent No.1 herein filed O.A. No. 7079 of 2005 before the A.P. Administrative Tribunal challenging the Articles of Charges issued in proceedings Rc.No.3392/97/A2 dated 25.8.2005 read with notice dated 30.9.2005 issued by the 5th respondent herein contemplating to conduct enquiry under Rule 20 of A.P.C.S. (CC&A) Rules, 1991 and to quash the same as they are in violation of law laid down by the Courts and also Rule 9 of A.P. Revised Pension Rules. The case of the applicant before the Tribunal was that the Charge Memo dated 25.8.2005 is issued in contravention of Rule 20(3) of A.P.C.S. (CC&A) Rules as the same was issued by the Enquiry Officer but not the Disciplinary Authority. It was also contended that the

incident referred to in the Charge Memo relates to the year 1997 and there is inordinate unexplained delay in concluding the disciplinary proceedings initiated on 12.7.1998 and therefore the same is hit by Rule 9 of A.P. Revised Pension Rules as the incident referred to in the charge memo occurred beyond four years from the date of issuance of the charge memo.

The petitioner herein filed detailed counter before the Tribunal stating that the applicant – respondent No.1 herein committed irregularities which caused loss to the petitioner – Corporation to a tune of Rs.1,47,470/-. Having heard the learned counsel for the parties and perusing the material available on record, the Tribunal allowed the O.A. filed by the applicant – respondent No.1 herein and accordingly set aside the Charge Memo dated 25.8.2005. Aggrieved by the same, the petitioner – Corporation filed this writ petition.

Heard the learned counsel for the petitioner and perused the material available on record.

It is contended by the learned counsel for the petitioner that the Tribunal erred in not considering the fact that the Corporation has sustained loss which has to be proportionately required to be collected from the persons responsible including the 1st respondent and that there is no illegality or irregularity in appointing the Enquiry Officer and therefore the Tribunal ought not to have allowed the O.A. filed by the respondent No.1 herein and therefore the order passed by

the Tribunal allowing the O.A. is liable to be set aside.

The respondent No.1 – applicant worked as Mandal Revenue Officer, Yalamanchili and he was in charge of M.L.S. Point at Yalamanchili and on the basis of the report of the alleged physical verification of the Revenue Divisional Officer, Narsipatnam, the 4th respondent herein issued show cause notice dated 6.11.1997 directing the applicant to show cause as to why disciplinary action should not be taken against him on the ground that he failed to discharge his legitimate duties properly and allowed diversion of P.D.S. Rice. The respondent No.1 submitted detailed explanation and thereafter the 4th respondent issued a charge memo dated 12.7.1998 to which the respondent No.1 is stated to have submitted a statement of defence. It appears that the respondents have not proceeded further with the enquiry against respondent No.1 even after lapse of eight years. On the other hand, it is stated by the respondent No.1 in the O.A. that the said charge memo was challenged in O.A. No. 3799 of 2005 and the same was quashed in view of inordinate delay in concluding the disciplinary proceedings. While so, the 5th respondent herein issued Articles of Charges in proceedings Rc.No.3392/97/A2 dated 25.8.2005 read with notice date 30.9.2005 read with notice dated 30.9.2005 contemplating to conduct enquiry against the respondent No.1. As rightly held by the Tribunal Rule 20 of A.P.C.S. (CC&A) Rules, 1991 stipulates that the disciplinary authority/cadre

controlling authority have to draft the charge memo and serve upon the delinquent officer and after that the delinquent officer has to submit his written statement of defence and then, after examining the written statement of defence if the disciplinary authority intends to impose a major penalty on the charges, the question of appointment of enquiry officer arises and that the enquiry officer has to proceed with the enquiry based on the articles of charges already furnished by the disciplinary authority/cadre controlling authority and the disciplinary authority shall forward to the subsequent authority the material as prescribed in Sub-Rule 20 of the said Rules. But, in the case on hand, the same is not followed. On the other hand, there is inordinate unexplained delay and Rule 9 of the Revised Pension Rules clearly stipulates that the departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his respondent-employment shall not be in respect of any event which took place more than four years before such institution. In this case, the incident relates to the period from 1995 to 1998 and the charge memo was issued on 25.8.2005. Thus, it is in violation of Rule 9 of the Revised Pension Rules. Even otherwise, as rightly pointed out by the Tribunal, there is no consistency as to the quantum of loss which is alleged to have been caused by respondent No.1 due to the irregularities committed by him. Therefore, we find no force in the contention advanced by the learned counsel for the petitioner. After

going through the order passed by the Tribunal in the light of the facts and circumstances of the case, we are convinced that as the enquiry officer has issued the charge memo dated 25.8.2005 contrary to the rules and as there was inordinate unexplained delay the Tribunal rightly set aside the charge memo dated 25.8.2005. We find no illegality or irregularity committed by the Tribunal in passing the order dated 23.1.2007 warranting interference by this Court.

There is no merit in this writ petition. It is accordingly dismissed.

T. MEENA KUMARI, J.

G. CHANDRAIAH, J.

Date: 11-6-2007.

MVB.